

## **Historic, archived document**

Do not assume content reflects current scientific knowledge, policies, or practices.



# United States Department of Agriculture

## DIVISION OF BIOLOGICAL SURVEY

---

### LAWS FOR THE PROTECTION OF BIRDS AND GAME IN THE DISTRICT OF COLUMBIA

The laws for the protection of birds and game now in force in the District of Columbia are contained in three acts of Congress: The District game law, approved March 3, 1899; an act amending that law, approved March 3, 1901; and the Lacey Act, approved May 25, 1900. These statutes regulate not only the capture, sale, and transportation of game, but also the sale and transportation of birds and plumage for millinery purposes. The game law prescribes the seasons for shooting, and for possession and sale of game, accords protection at all times to birds which are not game, authorizes the issue of permits for collecting specimens for scientific purposes, provides for enforcement, and fixes penalties. The Lacey Act (which applies to all States and Territories as well as to the District of Columbia) makes it unlawful to bring into the District any birds or game killed in violation of the law of the State or Territory where captured, or to ship out of the District any birds or game killed in violation of the local law.

**Objects.**—The objects of these laws are twofold. They are intended not only to preserve the birds which naturally occur within the District and if possible to increase their abundance, but also to prevent the National Capital from being made a market for birds illegally killed in neighboring or distant States. Thus it happens that seasons are fixed for the sale of deer, prairie chickens and other game never seen in the District except in the markets or in captivity. The list of birds known to occur in the vicinity of the Capital numbers nearly 300 species, of which 100 or more remain to breed, and of these about 25 have been found nesting within the city limits. At certain seasons of the year gulls and other water birds may be seen along the river; in early autumn reedbirds and ortolan visit the marshes in great numbers; and during migration the woods are thronged with migrants passing north or south. In the month of May one observer has found about 65 species of birds in a single day in the Zoological and Rock Creek parks. These native birds form a very valuable addition to the other natural attractions of the public parks, but their presence can be assured only by adequate protection. With the large number of parks in and about the city and the comprehensive plans for their improvement now under consideration, there is every reason to believe that the abundance of certain birds can be materially increased.

**Plan of the law.**—The general plan of the game law is very simple. All the birds which occur in the District, or which may be brought in for sale, are divided into three groups: (1) Game birds, protected only at certain seasons; (2) non-game birds, protected throughout



the year; and (3) injurious birds, as the English sparrow, the crow, two species of hawks, and the great horned owl, which are given no protection.

**Game birds.**—The game birds are clearly defined and include all the species which can be considered legitimate game or which should be killed for food. The District list is more comprehensive than that of some of the States in that it contains reedbirds and marsh blackbirds to meet the demands of local gunners. The open seasons, or times when game may be killed or exposed for sale, are greater in length than those in many States, and are as long as the requirements of modern game protection will permit. They begin on three different dates, July 1, September 1, and November 1, and extend for varying periods. Between April 1 and September 1 there is no open season, except that for woodcock, which begins July 1.

The seasons arranged according to opening dates are as follows:

Woodcock .....	July 1 to Jan. 1.
Deer .....	Sept. 1 to Jan. 1.
Rail or ortolan, reedbird, marsh blackbird .....	Sept. 1 to Feb. 1.
Prairie chicken .....	Sept. 1 to Mar. 15.
Duck, goose, brant, plover, snipe .....	Sept. 1 to Apr. 1.
Ruffed grouse or pheasant, wild turkey .....	Nov. 1 to Dec. 26.
Rabbit, squirrel .....	Nov. 1 to Feb. 1.
Quail or partridge .....	Nov. 1 to Mar. 15.

**Birds for millinery purposes.**—The provision in section 3 of the game law, that wild birds other than game birds shall not be killed or exposed for sale, protects not only the species generally known as song and insectivorous birds, and others, such as doves, meadow-larks, flickers, and robins, which are sometimes killed for food, but also various native birds that are utilized for millinery purposes. *The killing or sale of these species is absolutely prohibited at all times*, except under permit for scientific purposes. The law does not apply to the sale of plumage of domesticated birds, such as chickens, pigeons, peacocks, or ostriches, and it is generally understood not to prevent the sale of parrots, or of birds of paradise and other species that do not occur in this country. The native birds most used by the millinery trade at the present time are grebes, gulls, terns or sea swallows, pelicans, herons, and owls. Gulls, terns, and owls are often used entire for hat ornaments; the breasts of grebes and pelicans are utilized for trimmings; while herons furnish aigrettes, and pelicans, quills. The law covers not only whole birds, but parts of birds as well, such as heads, breasts, and wings, or single feathers made into pompons or sold separately as quills. The fact that plumage has been 'made up' by being dyed, by having bones removed from the wings, by having the breast feathers mounted on a strip of cloth, or by being combined with other plumage, does not exempt it from the operation of the law, provided any of the feathers originally came from birds which are protected. Practically the same law is now in force in every eastern State north of the Potomac and in several southern and western States. This is an important point for local dealers to bear in mind, since the District law thus furnishes a convenient means of ascertaining what birds can not be imported from the large cities in the North without rendering the shipper, carrier, and consignee liable to the heavy penalties fixed by the Lacey Act.

**Enforcement.**—The law prohibits nest-robbing, trapping, hunting with big guns, shooting birds at night, and all hunting on Sunday. It likewise prohibits possession and sale of birds, under the same penalties as those which apply to killing. These prohibitions apply to birds offered for sale in the District, whether such birds are captured within or without its limits. This principle has been sustained by the courts, including the District Court of Appeals (in the case of *Javins v. United States*, 11 App. D. C. 345, decided Nov. 1, 1897). On such decisions is based the provision in section 8 of the game law, that the fact that birds were captured outside the District constitutes no defense for illegal possession. The same point is fully covered by section 5 of the Lacey Act, which provides that birds brought into the District in original packages or otherwise, whether for consumption, sale, or storage, shall be subject to the local law to the same extent as though produced within the District.

The enforcement of the law affects not only sportsmen, but also all persons who have occasion to buy or sell game, whether for hotels and restaurants or for household use, and likewise those interested in the use of feathers for millinery purposes. It therefore concerns, directly or indirectly, a large proportion of the citizens of the District. It is incumbent on dealers to know the birds they handle as well as they know the other goods they have in stock. Where museums and libraries are as accessible as they are in Washington, the requisite knowledge can be acquired with very little trouble, and there is no reason why robins and shore larks should be sold for reedbirds, or sea gulls for pigeons. Information concerning birds can be readily obtained from the Smithsonian Institution or the Department of Agriculture, through the Fish and Game Protective Association or the Audubon Society. Copies of the local laws may be had free of charge, and information may be obtained concerning the laws of States from which birds are received, on application to the Department of Agriculture. Under these circumstances there should be no difficulty in strict observance of the game laws of the District. Customers as well as dealers should be familiar with the close seasons and with the kinds of birds which can or can not be sold. Ignorance of the identity of birds bought and sold is apt to lead to violations of some important provisions of the law to which severe penalties are attached. In any case of doubt, accurate information should be obtained from some authoritative source.

T. S. PALMER,  
*Assistant Chief, Biological Survey.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*



## THE DISTRICT GAME LAW.

30 Statutes at Large, p. 1012 (as amended by 31 Stat. L., p. 1091).

CHAP. 417. An Act For the protection of birds, preservation of game, and for the prevention of its sale during certain closed seasons in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**Partridge, or quail.**—[Sec. 1 as amended] That no person shall kill, expose for sale, or have in his or her possession, either dead or alive, any partridge, otherwise quail, between the fifteenth day of March and the first day of November, under a penalty of five dollars for each partridge, otherwise quail, killed, exposed for sale, or had in his or her possession, either dead or alive, and in default thereof to be imprisoned in the workhouse for a period not less than thirty days nor more than six months.

**Woodcock.**—That no person shall kill, expose for sale, or have in his or her possession, either dead or alive, any woodcock between the first day of January and the first day of July, under a penalty of five dollars for each woodcock killed, exposed for sale, or had in his or her possession, either dead or alive, and in default thereof to be imprisoned in the workhouse for a period not less than thirty days nor more than six months.

**Prairie chicken.**—That no person shall expose for sale or have in his or her possession, either dead or alive, any prairie chicken, otherwise pinnated grouse, between the fifteenth day of March and the first day of September, under a penalty of five dollars for each prairie chicken, otherwise pinnated grouse, exposed for sale, or had in his or her possession, either dead or alive, and in default thereof to be imprisoned in the workhouse for a period not less than thirty days nor more than six months.

**Turkey, ruffed grouse, or pheasant.**—That no person shall kill, expose for sale, or have in his or her possession, either dead or alive, any wild turkey or ruffed grouse, otherwise known as pheasant, between the twenty-sixth day of December and the first day of November, except the English, ring-neck, or other pheasants of foreign origin hatched and raised in farm poultry inclosures, under a penalty of five dollars for each wild turkey or ruffed grouse, otherwise known as pheasant, killed, exposed for sale, or had in his or her possession, either dead or alive, and in default thereof to be imprisoned in the workhouse for a period not less than thirty days nor more than six months.

**Squirrel, rabbit.**—That no person shall kill, expose for sale, or have in his or her possession, either dead or alive, any squirrel or rabbit except the species known as the English rabbit, Belgian hare, between the first day of February and the first day of November, under a penalty of two dollars for each squirrel or rabbit killed, exposed for sale, or had in his or her possession, either dead or alive, and in default thereof to be imprisoned in the workhouse for a period not less than fifteen days nor more than three months.

**Wild fowl, snipe, plover.**—That no person shall kill, expose for sale, or have in his or her possession, either dead or alive, any wild duck, wild goose, brant, snipe, or plover between the first day of April and the first day of September, under a penalty of five dollars for each wild duck, wild goose, brant, snipe, or plover killed, exposed for sale; or had in his or her possession, either dead or alive, and in default thereof to be imprisoned in the workhouse for a period not less than thirty days nor more than six months.

**Ortolan, reed bird, blackbird.**—That no person shall kill, expose for sale, or have in his or her possession, either dead or alive, any water rail or ortolan, reed bird or rice bird, marsh blackbird, or other game bird not previously mentioned, between the first day of February and the first day of September, under a penalty of two dollars for each water rail or ortolan, reed bird or rice bird, marsh blackbird, or other game bird not previously mentioned, killed, exposed for sale, or had in his or her possession, either dead or alive, and in default thereof to be imprisoned in the workhouse for a period not less than fifteen days nor more than six months.

**Deer.**—SEC. 2. That no person shall expose for sale or have in his or her possession any deer meat or venison, between the first day of January and the first day of September, under a penalty of ten dollars for such exposure for sale or having in possession, and the forfeiture of all such deer meat or venison to the officer making the arrest, who shall destroy the same; and, in default of fine, to be imprisoned in the workhouse for a period not to exceed sixty days.

**Game birds defined.**—SEC. 3. [as amended] That for the purposes of this Act the following only shall be considered game birds: The Anatidæ, commonly known as swans, geese, brant, river and sea ducks; the Rallidæ, commonly known as rails, coots, mud hens, and gallinules; the Limicolæ, commonly known as shore birds, plovers, surf birds, snipe, woodcock, sandpipers, tattlers, and curlews; the Gallinæ, commonly known as wild turkeys, grouse, prairie chickens, pheasants, partridges, and quails, and the species of Icteridæ, commonly known as marsh blackbirds and reed birds or rice birds.

**Other wild birds.**—That no person shall kill, catch, expose for sale, or have in his or her possession, living or dead, any wild bird other than a game bird, English sparrow, crow, Cooper's hawk, sharpshinned hawk, or great horned owl; nor rob the nest of any such wild bird of eggs or young; nor destroy such nest except in the clearing of land of trees or brush, under a penalty of five dollars for every such bird killed, caught, exposed for sale, or had in his or her possession, either dead or alive, and for each nest destroyed, and in default thereof to be imprisoned in the workhouse for a period not exceeding thirty days:

**Permits.**—*Provided*, That this section shall not apply to birds or eggs collected for scientific purposes under permits issued by the superintendent of police of the District of Columbia in accordance with such instructions as the secretary of the Smithsonian Institution may prescribe, such permits to be in force for one year from date of issue and nontransferable.

**Trapping.**—That no person shall trap, net, or ensnare any waterfowl or other wild bird (except the English sparrow), or have in his or her possession any trap, snare, net, or illuminating device for the purpose of killing or capturing any such bird, under a penalty of five dollars for each waterfowl or other wild bird (except the English sparrow) killed or captured, and in default thereof to be imprisoned in the workhouse not exceeding thirty days: *Provided*, That this Act shall not apply to birds or animals heretofore stuffed or to birds or animals hereafter killed in open season and subsequently stuffed.

**Night shooting, big guns.**—SEC. 4. That no person shall kill or shoot at any wild duck, wild goose, brant, or wild bird in the nighttime; nor kill or shoot at any wild duck, wild goose, wild brant, or wild bird with any other firearm, gun, or device than such as are habitually raised at arm's length and fired from the shoulder, under a penalty of five dollars for each wild duck, wild goose, wild brant, or wild bird killed, and in default thereof to be imprisoned in the workhouse for a period not exceeding thirty days; and the further penalty of



twenty dollars for having any firearm, gun, or device other than the gun habitually used at arm's length, in possession, for the purpose of violating the provisions of this chapter, and, in default, to be imprisoned in the workhouse for a period not exceeding ninety days.

**Search.**—SEC. 5. That to carry out the provisions of this chapter any police officer, game warden having police authority, or health officer, in the District of Columbia, with sworn information presented to such officer or warden, is authorized and empowered to thoroughly inspect any house, boat, market box, stall, cold storage, or other place of whatever character or kind, where he may believe game, meats, or birds, as heretofore mentioned in this chapter, may be stored or kept; and any proprietor, agent, employee, or other person refusing to permit such inspection shall be deemed guilty of interference with the police, and upon conviction therefor, be fined not more than one hundred dollars nor less than twenty-five dollars, and, in default of such payment, to be imprisoned in the United States jail not exceeding six months.

**Trespass.**—SEC. 6. That any person who shall knowingly trespass on the lands of another for the purpose of shooting or hunting thereon, after due notice by the owner or occupant of lands, shall be liable to such owner or occupant in exemplary damages to an amount not exceeding one hundred dollars. That notice shall be given by erecting and maintaining signboards, at least eight by twelve inches in dimensions, on the borders of the premises, and at least two such signs for every fifty acres; and any person who shall maliciously tear down or in any manner deface or injure any of such signboards shall be liable to a penalty of not less than five dollars for each and every signboard so torn down, defaced, or injured; and, in default, to be imprisoned for a period not exceeding thirty days in the workhouse.

**Sunday shooting.**—SEC. 7. That there shall be no shooting, or having in possession in the open air the implements for shooting, on the first day of the week, called Sunday, except to transport said implements within or without the District of Columbia; and that any person violating the provisions of this section shall be liable to a penalty of not more than twenty dollars for each offense.

**Importation no defense.**—SEC. 8. That wherever in this Act possession of any birds, fowls, or meats is prohibited, the fact that the said birds, fowls, or meat were killed or captured outside the District of Columbia shall constitute no defense for such possession.

**Reward.**—SEC. 9. That any officer or other person securing the conviction of any violator of any of the provisions of this Act, in the police court or other court of the District of Columbia, shall receive one-half of any fine which may be imposed and paid for such violation, and prosecution shall be brought in the name of the District of Columbia.

**Repeal.**—SEC. 10. That all acts now in force in the District of Columbia inconsistent with the provisions of this Act be, and the same are hereby, repealed.

Approved, March 3, 1899 (amended March 3, 1901).



## THE LACEY ACT.

31 Statutes at Large, p. 187.

CHAP. 553. An Act To enlarge the powers of the Department of Agriculture, prohibit the transportation by interstate commerce of game killed in violation of local laws, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the duties and powers of the Department of Agriculture are hereby enlarged so as to include the preservation, distribution, introduction, and restoration of game birds and other wild birds. The Secretary of Agriculture is hereby authorized to adopt such measures as may be necessary to carry out the purposes of this Act and to purchase such game birds and other wild birds as may be required therefor, subject, however, to the laws of the various States and Territories. The object and purpose of this Act to aid in the restoration of such birds in those parts of the United States adapted thereto where the same have become scarce or extinct, and also to regulate the introduction of American or foreign birds or animals in localities where they have not heretofore existed.

The Secretary of Agriculture shall from time to time collect and publish useful information as to the propagation, uses, and preservation of such birds.

And the Secretary of Agriculture shall make and publish all needful rules and regulations for carrying out the purposes of this Act, and shall expend for said purposes such sums as Congress may appropriate therefor.

**Importation.**—SEC. 2. That it shall be unlawful for any person or persons to import into the United States any foreign wild animal or bird except under special permit from the United States Department of Agriculture: *Provided*, That nothing in this section shall restrict the importation of natural history specimens for museums or scientific collections, or the importation of certain cage birds, such as domesticated canaries, parrots, or such other species as the Secretary of Agriculture may designate.<sup>1</sup>

**Prohibited species.**—The importation of the mongoose, the so-called “flying foxes” or fruit bats, the English sparrow, the starling, or such other birds or animals as the Secretary of Agriculture may from time to time declare injurious to the interest of agriculture or horticulture is hereby prohibited, and such species upon arrival at any of the ports of the United States shall be destroyed or returned at the expense of the owner. The Secretary of the Treasury is hereby authorized to make regulations for carrying into effect the provisions of this section.

**Shipment.**—SEC. 3. That it shall be unlawful for any person or persons to deliver to any common carrier, or for any common carrier to transport from one State or Territory to another State or Territory, or from the District of Columbia or Alaska to any State or Territory, or from any State or Territory to the District of Columbia or Alaska, any foreign animals or birds the importation of

---

<sup>1</sup> On September 13, 1900, the Secretary of Agriculture extended the list of species which may be imported without permits as follows:

*Mammals.*—Anteaters, armadillos, bears, chimpanzees, elephants, hippopotamuses, hyenas, jaguars, kangaroos, leopards, lions, lynxes, manatees, monkeys, ocelots, orang-utans, panthers, raccoons, rhinoceroses, sea-lions, seals, sloths, tapirs, tigers, or wildcats.

*Birds.*—Swans, wild doves, or wild pigeons of any kind.

*Reptiles.*—Alligators, lizards, snakes, tortoises, or other reptiles.

(See Circular No. 30, Biological Survey.)

which is prohibited, or the dead bodies or parts thereof of any wild animals or birds, where such animals or birds have been killed in violation of the laws of the State, Territory, or District in which the same were killed: *Provided*, That nothing herein shall prevent the transportation of any dead birds or animals killed during the season when the same may be lawfully captured, and the export of which is not prohibited by law in the State, Territory, or District in which the same are killed.

**Marking packages.**—SEC. 4. That all packages containing such dead animals, birds, or parts thereof, when shipped by interstate commerce, as provided in section one of this Act, shall be plainly and clearly marked, so that the name and address of the shipper and the nature of the contents may be readily ascertained on inspection of the outside of such packages.

**Penalties.**—For each evasion or violation of this Act the shipper shall, upon conviction, pay a fine of not exceeding two hundred dollars; and the consignee knowingly receiving such articles so shipped and transported in violation of this Act shall, upon conviction, pay a fine of not exceeding two hundred dollars; and the carrier knowingly carrying or transporting the same shall, upon conviction, pay a fine of not exceeding two hundred dollars.

**Imported species subject to local laws.**—SEC. 5. That all dead bodies, or parts thereof, of any foreign game animals, or game or song birds, the importation of which is prohibited, or the dead bodies, or parts thereof, of any wild game animals, or game or song birds transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in such State or Territory be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such animals and birds had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise. This Act shall not prevent the importation, transportation, or sale of birds or bird plumage manufactured from the feathers of barnyard fowl.

Approved, May 25, 1900.